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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/422,339	10/21/1999	THOMAS G. WOOLSTON	11092-012001	5419

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FISH & RICHARDSON, PC
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EXAMINER
BROWN, TIMOTHY M

ART UNIT	PAPER NUMBER
1648	

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>14 December 2004</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-66* is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-66* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
          application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date <u>12/14/04</u>.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission mailed on

December 14, 2004 has been entered.

Claim Objections

Claim 27 is objected to for containing a grammatical error; line 16 recites

"selected by the first user and send [sic] to the second user."

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1-66 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

Claim 1 is indefinite in the recitation of "a first entity" in line 7. This renders the

claim indefinite because the modular computer program is distributed to "users." Thus,

it is unclear how the steps involving an "entity" relate to the other steps that involve

users.

Claims 1, 27, 48 and 49 are indefinite in the recitation of "a scrolling stream of dynamic pricing information." This language does not clarify the way that the information is presented. It is unclear whether the information is displayed in a ticker format, or in some other manner in which the information moves from top to bottom. Moreover, it is unclear whether "scrolling" is performed automatically, or through the action of the user as with "scrolling" through an electronic document.

Claims 1, 27, 48 and 49 are indefinite in the recitation of "an interactive visual indication of a user attractive resource." It is unclear whether this language is attempting to describe a hyperlink, a banner, or a window or frame that represents another computer program.

Claims 27, 48 and 49 are indefinite in the recitation of "a plurality of sources of dynamic pricing information." This language does not make it clear whether the "sources" comprise electronic storage components, or entities having a collection of information.

Claims 48 and 49 are indefinite in the recitation of "a user interface abstraction." This language fails to define the manner in which information is conveyed to the user; one skilled in the art would not understand what the "abstraction" represents.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-22, 27-43, and 48-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (US 6,216,112 B1) ("Fuller") in view of Stanek (Stanek, W.R. "Pushing the envelope with push technology" PC Magazine (September 23, 1997) Vol. 16, No. 16 p 245).

Applicants' invention is drawn to a method and computer-implemented system for encouraging users to access an Internet information source. The invention operates to distribute a computer program that displays pricing information in a ticker format. Input identifying information to be obtained is received from a user and information is then displayed in a ticker format. The information ticker includes a means for accessing an incentive. The invention also provides for distributing the computer program and its information display from a first user to a second user.

Fuller teaches many of the features of Applicants' invention. Fuller describes a method and system for distributing computer programs over the Internet wherein the computer programs are embedded with incentives (abstract, lines 1-3; col. 4, lines 56-59; col. 12, lines 35-44). The incentives may comprise coupons, rewards (col. 15, lines 46-48), or interactive advertisements that allow users to access Internet merchants using the computer program interface (col. 14, lines 56-65). The advertisements come in the form of videos, animation, text and audio (col. 14, lines 59-61). Fuller allows users to choose from a number of computer programs and provides access to online financial information (col. 8, lines 4-16). Finally, Fuller teaches a first user downloading and accessing a computer program, and forwarding the computer program to a second user (col. 4, lines 31-38; col. 9, lines 54-56).

Fuller fails to teach some minor features of the invention. These include displaying pricing information using a ticker, and embedding the incentive within the ticker display.

However, Stanek overcomes this deficiency by teaching a method of distributing computer software over the Internet. Stanek's software is programmed to access streams of information from various sources, and display the information using a ticker (p. 2, ¶¶ 2, 3 and 7). Stanek's software also lets users select the type of information they receive including stock quotes (p. 2, ¶ 7), and allows users to access information through the ticker display (Id.). At the time of Applicants' invention, it would have been obvious to modify Fuller to include the noted features from Stanek. Such a combination would provide Stanek's method with a larger selection of computer programs. Moreover, Stanek suggests the desirability of a streaming display of pricing information, such as stock quotes, in that Stanek teaches distributing financial information.

Regarding claims 8 and 9, neither Fuller nor Stanek teach using e-mail or instant messaging to the computer program from the first user to the second user. However, the Examiner takes Official Notice that these features are old and well known in the Internet commerce art. Moreover, Fuller describes downloading the computer program to a second computer over a network (col. 9, lines 54-61). Therefore, modifying Fuller and Stanek to include distributing the computer program using e-mail or instant messaging would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claims 12, 33 and 55, neither Fuller nor Stanek teach arranging the pricing information into a taxonomy. However, including this feature would have been obvious as using a taxonomy, such as an index or menu, is an old and well known means for organizing information.

Regarding claims 16, 37 and 59, neither Fuller nor Stanek teach an incentive comprising a contest. However, the Examiner takes Official Notice that offering a contest is old and well known means of influencing customers. Thus, it would have been obvious to modify Fuller and Stanek to include an incentive comprising a contest in order to provide a variety of incentive options.

Claims 23-26 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al. (US 6,216,112 B1) ("Fuller") in view of Stanek (Stanek, W.R. "Pushing the envelope with push technology" PC Magazine (September 23, 1997) Vol. 16, No. 16 p 245) and "Navigator 4.0" ("Navigator 4.0 approaches beta" PC Week (July 8, 1996).

Fuller and Stanek teach all the limitations discussed above. Fuller and Stanek do not expressly teach a plurality of instances of the computer program that are the same as, or different, from one another. However, Navigator 4.0 teaches a method of displaying stock quote information using numerous windows and information tickers that operate simultaneously. At the time of Applicants' invention, it would have been obvious to modify Fuller and Stanek to include Navigator 4.0's teaching of operating multiple information windows simultaneously. Including this feature would enable users

to access a greater range of financial information without having to transition between program windows. It should also be noted that Navigator 4.0 suggests its combination with Fuller and Stanek in that Navigator 4.0 is compatible with "groupware" programs like those taught by Fuller and Stanek.

Response to Arguments

Applicants' arguments are moot in view of the new grounds of rejection presented above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Horstmann (US 6,285,985); "Stock and Options Traders Get Powerful Free Software" Business Wire (July 29, 1999); "Real Time Quotes at a Reasonable Cost" Wall Street & Technology (August 1995); McCormick, J. "Downloading makes the Web go round" Government Computer News (October 13, 1997) Vol. 16, No. 31, p. 27.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Brown whose telephone number is (571) 272-0773. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

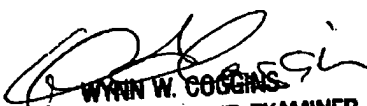Application/Control Number: 09/422,339   Page 8
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Housel can be reached on (571) 272-0902. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

                                              Timothy M. Brown
                                              Examiner
                                              Art Unit 1648

tmb

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